

## **ANDERSON EXHIBIT 15**

Parker, Theresa \_Tip\_

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UNITED STATES DISTRICT COURT

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DISTRICT OF MASSACHUSETTS

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In re: PHARMACEUTICAL  
INDUSTRY AVERAGE WHOLESALE  
PRICE LITIGATION

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MDL No. 1456

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THIS DOCUMENT RELATES TO:

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Civil Action No.  
01-12257-PBS

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US ex rel Ven-A-Care of  
the Florida Keys, Inc.  
v. Abbott Laboratories, Inc.)  
No. 07-CV-11618-PBS

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VIDEOTAPED ORAL DEPOSITION OF THERESA "TIP" PARKER

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February 19, 2009

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DEPOSITION upon videotaped oral  
examination, of the witness, THERESA "TIP" PARKER,  
taken on behalf of Ven-A-Care of the Florida Keys,  
Inc. in the above entitled cause pending in the  
United States District Court, District of  
Massachusetts, before TAMMY POZZI, Certified  
Shorthand Reporter in and for the State of Texas, on  
February 19, 2009, in the law offices of Jones Day,  
77 West Wacker, 35th Floor, Chicago, Illinois,  
between the hours of 9:08 a.m. and 2:29 p.m.,  
pursuant to due notice and the Federal Rules of Civil  
Procedure.

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9.

A. Okay. (Reviews document.) Okay.

Q. Are you familiar with any of the pages of documents shown in Fiske Exhibit 9?

A. Other than the fact that it says a price change effective date, a notice, and a list, it's a familiar format.

Q. Which page specifically for the record?

A. Page 3 and 4.

Q. Okay. Page 3 and 4 of Fiske Exhibit 9 appear to be a price change notification?

A. That's correct.

Q. And have you been involved in the communication of this type of price change information in the past?

A. No. I do not communicate price change information.

Q. Who does?

A. Strategic Pricing Department.

Q. And how do they go about sending that out? Is it like a mail merge list or a fax blast; do you know?

A. I don't know how they do it today. They have used multiple means over time.

Q. Such as?

A. A fax blast was a process.

Q. Where a contractor would actually send out price change notifications such as these two pages to the industry; is that correct?

A. We controlled the "to" list. It -- it had a "send to," and there was a -- a list of people that they communicated with.

Q. I see. The -- Abbott itself sent out the faxes?

A. Abbott didn't send the faxes. A service company --

Q. Uh-huh.

A. -- sent them on Abbott's behalf to a list maintained by Abbott.

Q. I see. Right. And that list would typically cover pharmacies throughout America and wholesalers, etcetera, right?

MS. FUMERTON: Objection, form.

A. I'm familiar with the purchasing customer

part of the list. I don't know beyond the wholesalers and the chain warehouse customers who else was on the list.

Q. (BY MR. ANDERSON): All right. At -- what you know is that chain warehouse purchasers and wholesaler purchasers were on the list?

A. That's correct.

Q. I see. Did you get copies of the price change notifications routinely?

A. We were --

MS. FUMERTON: Objection, form.

A. We were communicating internally, yes.

Q. (BY MR. ANDERSON): But you weren't actually responsible for, then, sending it out to the customers, because that was already being done by the Pricing Department?

A. That's correct.

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Q. In looking at the price change list, which prices were set by Abbott?

A. The price referred to as "Case Price" and "List Price" are Abbott set prices.

Q. How did Abbott go about including these AWP's in announcing this price change?

MS. FUMERTON: Objection, form.

A. Again, I didn't create this, so -- other

than the -- it would be estimated, which has been Abbott's standard practice.

Q. (BY MR. ANDERSON): Yes, ma'am. So not only would Abbott be estimating AWP's at launch of a drug, but Abbott would also estimate AWP's when it took price changes; is that correct?

MS. FUMERTON: Objection, form.

A. That would be what this document indicates.

Q. (BY MR. ANDERSON): And is that true, based on your experience, that Abbott estimated AWP's after the launch of a product when it took price changes?

MS. FUMERTON: Objection, form.

A. On the 1991 document, there is such information.

Q. (BY MR. ANDERSON): I know that. I -- I -- I see it too. I'm asking beyond the document.

Is it your experience that when you got the price change notifications, that historically those notifications also included new AWP's?

A. I don't recall.

Q. You're not sure one way or the other?

A. I don't know what --

Q. Do you have any reason to believe that prior to the 2001/2000 time frame, the routine price change notifications did not include AWP's from

Abbott?

A. I don't --

MS. FUMERTON: Objection, form.

A. -- know what was on them other than important to the customers, meaning list and WAC. I can't -- I -- I couldn't possibly say whether it was or it wasn't on the document.

Q. (BY MR. ANDERSON): Well, that --

MS. FUMERTON: And, Jarrett, are you asking generally about just the pricing compendia, or to other people as well?

MR. ANDERSON: Oh, no.

MS. FUMERTON: Because this document deals only with what is being reported to pricing compendia.

MR. ANDERSON: Oh, no, I don't think so. I think she said it went out to all the chains and the wholesalers too.

MS. FUMERTON: I don't think that's what the record states, but --

MR. ANDERSON: Well --

THE WITNESS: Okay.

MR. ANDERSON: -- we'll let it speak for itself. I mean --

THE WITNESS: Okay.

MR. ANDERSON: Yeah.

THE WITNESS: Okay?

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 15 it -- I was -- it wasn't -- she didn't say it very  
 16 loudly, which was why I asked for the answer to be  
 17 read back, because I thought she just said "I don't  
 18 know" but wasn't sure and that's why I had asked the  
 19 court reporter to read it back.

20 MR. ANDERSON: You've got to stop  
 21 talking so the court reporter can show me the  
 22 answer.

23 THE REPORTER: That's her answer  
 24 (indicating). She said, "I don't know."

25 MR. ANDERSON: Right. Where was the  
 "no" though?

0090

1 THE REPORTER: Oh, that was back up --  
 2 I was in a different spot in the transcript where you  
 3 saw that response. This (indicating) was her answer  
 4 the first time, and then it was again --

5 MR. ANDERSON: Let -- let me see the  
 6 answer and question.

7 THE REPORTER: Okay. Here's the  
 8 answer (indicating).

9 MR. ANDERSON: Okay.

10 Q. (BY MR. ANDERSON): Okay. Do you have any  
 11 reason to believe, Ms. Parker, that Abbott created  
 12 two sets of routine price notification lists, one set  
 13 that included AWP's and went to the pricing compendia,  
 14 and a different set that did not have AWP's that went  
 15 to the wholesalers and the chain warehouses?

16 MS. FUMERTON: Objection to the form.

17 A. I don't know that there were two sets.

18 Q. (BY MR. ANDERSON): Okay. So, accordingly,  
 19 is it true you don't have any information or reason  
 20 to believe that there were two different formats for  
 21 the price notification list?

22 MS. FUMERTON: Objection, form.

23 A. I don't know about two different lists.

24 Q. (BY MR. ANDERSON): All right. But you do  
 25 know that the last two pages of Fiske Exhibit 9 are

0091

1 an example of a price notification list?

2 A. I do --

3 MS. FUMERTON: Objection, form.

4 A. That's correct.

5 Q. (BY MR. ANDERSON): Looking at the second  
 6 page of Fiske Exhibit 9, do you recognize that type  
 7 of letter?

8 A. It says "Dear Data Vendor". I'm not a data  
 9 vendor so, I would never have received a document  
 10 like this.

11 Q. Have you ever been involved in the  
 12 communication of so-called "Data Vendor" letters?

13 A. No, I have not.

14 Q. Do consider FirstDataBank, Red Book, and  
 15 Medi-Span to be data vendors?

16 A. Yes, I do.

17 Q. And they're data vendors who are selling  
 18 subscriptions of pricing data and other drug data to  
 19 pharmacies and wholesalers across America, correct?

20 A. Correct.

21 THE WITNESS: Do you want this  
 22 (indicating) back in --

23 MR. ANDERSON: Oh.

24 THE WITNESS: -- this pile?

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25 MR. ANDERSON: Thank you, yes. I've

0092

1 got to keep those organized.

2 (Exhibit 5 marked.)

3 Q. (BY MR. ANDERSON): Now, if you could,  
4 Ms. Parker, take a look at what's been marked as  
5 Exhibit 5.

6 A. (Reviews document.)

7 Q. Are you familiar with documents such as  
8 Exhibit 5?

9 A. No, I am not.

10 Q. Did you typically receive any bid schedules  
11 or lists of bid pricing?

12 A. I did not.

13 Q. Looking at this Exhibit 5, do you see  
14 toward kind of the right-hand side, kind of mid to  
15 far right-hand side a column titled "Chains"?

16 A. I see it.

17 Q. Were you ever involved in communicating  
18 chain pricing to any of your chain contacts -- chain  
19 pharmacy contacts?

20 A. I didn't communicate pricing.

21 Q. I know. That's why I'm asking.

22 A. No, I said I did not communicate --

23 Q. Okay.

24 A. -- pricing.

25 Q. All right. Very well. Is this --

0093

1 MS. FUMERTON: Just put it --

2 THE WITNESS: This goes in my stack?

3 MS. FUMERTON: Yeah.

4 Q. (BY MR. ANDERSON): Did you ever receive  
5 any kind of price verification lists or reports from  
6 any pricing compendia?

7 A. No, I did not.

8 Q. There was a time period when you not only  
9 held the job responsibilities for Trade Relations at  
10 Abbott, but you also were the manager of the National  
11 Account Managers, what came to be known as the  
12 National Trade Executives, correct?

13 A. That's correct.

14 Q. What was that time period?

15 A. '99 to 2001.

16 Q. Did Carol Nauta report to you during that  
17 time?

18 A. No, she did not.

19 Q. What about Dave Lutz?

20 A. No. He was not employed by Abbott at that  
21 time.

22 Q. Have you ever been involved in any kind of  
23 business dealings with Eckerd's?

24 A. Yes.

25 Q. In what sense?

0094

1 A. I mean, they were a warehousing chain,  
2 important customer, that operated thousands of stores  
3 in the United States, an important customer to  
4 Abbott.

5 Q. What about Wal-Mart?

6 A. Another important chain warehousing  
7 customer.

8 Q. Over the years did you become aware that  
9 those customers were interested in reimbursement

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Q. (BY MR. ANDERSON): In all your dealings with chain drug stores all these many years and, in fact, your role as a purchaser at a chain, and all of your involvement at the annual meetings, you've never become aware that chain drug stores are interested in making more profits?

MS. FUMERTON: Objection, form.

A. I said at the beginning that profit was a number-one goal, absolutely.

Q. (BY MR. ANDERSON): Okay. And, accordingly, you've become familiar that chains desire more spread, right?

MS. FUMERTON: Objection, form.

A. I -- I don't know what "more spread" means.

Q. (BY MR. ANDERSON): Well, more rather than less. They would like to make more money rather than less money?

A. We all would --

MS. FUMERTON: Objection, form.

A. We all would like to make more money --

Q. (BY MR. ANDERSON): Sure.

A. -- rather than less.

Q. Sure. And -- and that's what this bullet point is talking about, correct?

MS. FUMERTON: Objection, form.

A. The bulletpoint reads -- I can only tell you what it reads.

Q. (BY MR. ANDERSON): And it reads "chains want more spread"?

MS. FUMERTON: Well --

A. That's what it --

MS. FUMERTON: -- to be -- to be accurate, it reads, "Chains want more spread between AWP and actual cost to offset MCO reimbursement contracts".

Q. (BY MR. ANDERSON): That's right. And that's consistent with your understanding when you've been dealing with chains over the years at Abbott, correct?

MS. FUMERTON: Objection, form.

A. That has not ever been brought to my attention from a customer.

Q. (BY MR. ANDERSON): It hasn't?

A. No.

Q. How did you become aware of it then?

MS. FUMERTON: Objection, form. She didn't -- lack of foundation.

Q. (BY MR. ANDERSON): How did you become aware that pharmacies would like to make more profits?

A. I'll repeat. I am a pharmacist and have practiced in both a chain setting and a wholesale setting prior to coming to Abbott. I know that pharmacy is a large percentage of a chain's business, and from the wholesale side, clearly pharmacies and independent pharmacies' profitability is a concern to their customer base.

So how do I become aware? I read. I'm a fairly smart person. I understand the business process.

Q. I appreciate that. And -- and I -- I agree

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 2 of is cost -- or acquis- -- acquisition cost. So  
 3 Abbott's only response could be in -- in that  
 4 particular field or -- I -- I keep using "field"  
 5 because, to me, again, it's a data field, but -- you  
 6 know, that drives a calculation or something.

7 Q. So you're saying Abbott could lower the  
 8 prices that it charged the chains, correct?

9 A. I -- I guess that would be one method.

10 Q. Is it true that Abbott also could report  
 11 higher WACs to the compendia, such as FirstDataBank,  
 12 and, in turn, trigger the publication of higher AWP's?

13 MS. FUMERTON: Objection, form.

14 A. I -- I don't know what's reported to -- I  
 15 don't know how that's done.

16 Q. (BY MR. ANDERSON): You -- you know that  
 17 AWP's are a function of WAC. You've already --

18 A. That's --

19 Q. -- testified to that.

20 A. That's correct.

21 Q. Okay.

22 MS. FUMERTON: Objection, form.

23 Q. (BY MR. ANDERSON): So, therefore, to the  
 24 extent Abbott raises a WAC, that's going to cause an  
 25 increased AWP to be published, correct?

0105 A. That's correct.

2 MS. FUMERTON: Objection, form.

3 Q. (BY MR. ANDERSON): Okay. And so like  
 4 Mr. Fiske testified over the past couple of days,  
 5 that since 1994, the Abbott erythromycins have  
 6 experienced five different price increases?

7 A. Okay.

8 Q. And, in turn, those five different WAC  
 9 price increases have led to five different AWP price  
 10 increases, correct?

11 A. Correct.

12 MS. FUMERTON: Objection, form.

13 A. I mean --

14 Q. (BY MR. ANDERSON): And that --

15 A. -- that would follow that --

16 Q. Sure.

17 A. Again, I -- I don't know it, haven't seen  
 18 it, but...

19 Q. Well, you'll agree, won't you, that causing  
 20 increased AWP's to be published is also a mechanism by  
 21 which a drug company can respond to a drug store's  
 22 request for more spread?

23 MS. FUMERTON: Objection, form.

24 A. There is only two -- two factors in -- in  
 25 that, and it's cost and AWP. And at Abbott -- cost

0106 1 is the only one that I'm familiar with that Abbott  
 2 has any control of.

3 Q. (BY MR. ANDERSON): Do you agree, though,  
 4 that by causing increased AWP's to be published, a  
 5 drug company can respond to a drug store's request  
 6 for more spread?

7 MS. FUMERTON: Objection, lack of  
 8 foundation.

9 A. And that would be outcome, but -- I  
 10 don't -- I mean, that's, again, drawing conclusion  
 11 from -- from a -- a hypothetical situation.

12 Q. (BY MR. ANDERSON): Well, I- -- I'll tell